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In re Application of:  
HOFMANN, Albrecht, et al. : DECISION ON RENEWED  
U.S. Application No.: 10/511,285 : PETITIONS  
PCT No.: PCT/DE03/01079 :  
Int'l Filing Date: 02 April 2003 :  
Priority Date: 18 May 2002 :  
Atty Docket No.: 2998 :  
For: SYSTEM WITH A TOOL-HOLDING :  
FIXTURE :

This decision is issued in response to the "Renewed Petitions Under 37 CFR 1.137(b) and 37 CFR 1.47(a)" filed 31 July 2007. No additional petition fees are required.

**BACKGROUND**

The procedural background for the present application has been set forth in the Communication mailed herein on 23 November 2005 and in the decisions mailed on 09 February 2007, 15 March 2007, and 23 July 2007. As set forth in the previous decisions, the present application became abandoned for failure to file a proper and timely response to the 23 November 2005 communication, and applicants' subsequent petition for revival under 37 CFR 1.137(b) has been dismissed for failure to satisfy the requirements of a grantable petition. Specifically, applicants' previous submissions did not include the "required reply" in the form of a declaration acceptable under 37 CFR 1.497 and 1.42. More specifically, applicants had not submitted all the requirements for a grantable petition under 37 CFR 1.47(a) for acceptance of the previously filed declaration without the signature of the legal representative of the deceased inventor, whom applicants assert has refused to execute the declaration on behalf of the deceased inventor.

The most recent decision, mailed 23 July 2007, provided applicants with a two-month response period.

On 31 July 2007, applicants filed the renewed petitions considered herein as a timely response to the 23 July 2007 decision.

On 15 August 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the present application was abandoned "per decision dated 23 July 2007."

## DISCUSSION

### **1. Petition Under 37 CFR 1.47(a)**

The most recent decision indicated that the final outstanding requirement for the petition under 37 CFR 1.47(a) was an adequate showing that the legal representative had refused to sign the declaration herein. The decision noted that if applicant could establish that the legal representative resided at the address to which the 17 October 2005 request for signature was delivered, then the legal representative's failure to respond to such letter would be considered a constructive refusal to sign the declaration.

The renewed petition includes evidence confirming that, in September 2006 and in June 2007, the legal representative, Mrs. Marcus Heckman, personally received Federal Express deliveries at the same address to which the 17 October 2005 mailing was delivered. In addition, applicants note that the legal representative listed this same address as her address on her written statement dated 19 September 2005. Taken as a whole, the materials filed by applicants are sufficient to demonstrate that, on 17 October 2005, the legal representative resided at the address to which applicants' letter requesting her signature on the declaration was delivered.

The legal representative's failure to provide the declaration in response to the 17 October 2005 request is considered a constructive refusal to execute the declaration on behalf of the deceased inventor. Accordingly, applicants have now satisfied the final requirement for a grantable petition under 37 CFR 1.47(a) for acceptance of the declaration filed herein without the signature of the legal representative.

### **2. Submission Under 37 CFR 1.42**

The declaration filed by applicants on 17 January 2007 identifies the legal representative of the deceased inventor and sets forth the legal representative's citizenship, residence, and mailing address information for the legal representative. The declaration also includes the citizenship of the deceased inventor and all other information required under 37 CFR 1.497.

Based on the above, and the grantable petition under 37 CFR 1.47(a) permitting acceptance of the declaration without the signature of the legal representative, acceptance of the declaration under 37 CFR 1.42 and 1.497 is appropriate.

### **3. Petition For Revival Under 37 CFR 1.137(b)**

Based on the above, applicants have now provided the "required reply" in the form of an acceptable declaration. As noted in the previous decisions, this was the final outstanding element of a grantable petition. Applicants have therefore satisfied the requirements of a grantable petition under 37 CFR 1.137(b).

**CONCLUSION**

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The declaration filed herein on 17 January 2007 is accepted without the signature of non-signing legal representative Kersten HECKMANN.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing legal representative will be forwarded to the legal representative's last-known address, as set forth in the petition.

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Markus HECKMANN is **GRANTED**.

Applicants' petition for revival under 37 CFR 1.137(b) is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 17 January 2007.



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